

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

CISCO SYSTEMS INC,
Plaintiff,

v.

ARISTA NETWORKS, INC.,
Defendant.

Case No. 14-cv-05344-BLF

**ORDER GRANTING IN PART
MOTIONS TO SEAL**

[Re: ECF 331, 328]

This order modifies the Court’s prior order, ECF 487, and specifically addresses parties’ administrative motions to file under seal portions of their briefing and exhibits in support of their motions for partial summary judgment at ECF 331, 328. For the reasons stated below, the motions are GRANTED IN PART and DENIED IN PART.

I. LEGAL STANDARD

“Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’” *Kamakana v. City and Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978)). Consequently, access to motions and their attachments that are “more than tangentially related to the merits of a case” may be sealed only upon a showing of “compelling reasons” for sealing. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092,

1101–02 (9th Cir. 2016). Filings that are only tangentially related to the merits may be sealed upon a lesser showing of “good cause.” *Id.* at 1097. In addition, sealing motions filed in this district must be “narrowly tailored to seek sealing only of sealable material.” Civil L.R. 79-5(b). A party moving to seal a document in whole or in part must file a declaration establishing that the identified material is “sealable.” Civ. L.R. 79-5(d)(1)(A). “Reference to a stipulation or protective order that allows a party to designate certain documents as confidential is not sufficient to establish that a document, or portions thereof, are sealable.” *Id.*

II. DISCUSSION

The Court has reviewed the parties’ sealing motions and respective declarations in support thereof. The Court finds the parties have articulated compelling reasons to seal certain portions of most of the submitted documents. The proposed redactions are also narrowly tailored. The Court’s rulings on the sealing requests are set forth in the tables below:

A. ECF 331

Identification of Documents to be Sealed	Description of Documents	Court’s Order
Cisco’s Motion for Partial Summary Judgment	Line 23 on page 7 to line 1 on page 8; lines 18-22 on page 9; lines 1-8, 14-15, 17-21 on page 10; line 27 on page 10 to line 1 on page 11; lines 2-3, 7-10, 17-21 on page 11; line 26 on page 11 to line 2 on page 12; lines 7-10, 24-27 on page 12; lines 17-19 on page 15; lines 13-15, 19-23 on page 16; lines 17-21 on page 18; lines 20-24 on page 19; lines 25-27 on page 21; lines 1, 16-19 on page 22; and lines 5-8 on page 24 contain Arista’s confidential product and source code information, and reference exhibits sought to be sealed.	GRANTED as to line 23 on page 7 to line 1 on page 8; lines 18-22 on page 9; lines 1-8, 14-15, 17-21 on page 10; line 27 on page 10 to line 1 on page 11; lines 2-3, 7-10, 17-21 on page 11; line 26 on page 11 to line 2 on page 12; lines 7-10, 24-27 on page 12; lines 17-19 on page 15; lines 13-15, 19-23 on page 16; lines 17-21 on page 18; lines 20-24 on page 19; lines 25-27 on page 21; lines 1, 16-19 on page 22; and lines 5-8 on page 24; and DENIED as to remainder.
Exhibits 1-26; 40-41; 44-48; 51-53; 64-70; 72; 74-	Arista does not seek to seal Exhibits 44, 45, 48, 64, 66, 70,	GRANTED as to specified portions of Exhibits 47, 65, 67,

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	75; 77-82 to the Declaration of Amy H. Candido in Support of Cisco's Motion for Partial Summary Judgment	and 74. Line 7 on page 165 to line 25 on page 176 and line 1 on page 216 to line 25 on page 219 of Exhibit 47 contain confidential information related to Arista's software design and customer information. Lines 3- 25 on page 88; line 22 on page 89 to line 25 on page 90; and lines 11-25 on page 238 of Exhibit 65 contain Arista's confidential business information. Line 24 on page 176 to line 25 on page 178; line 2 on page 325 to line 25 on page 330; and lines 1-20 on page 345 of Exhibit 67 contain Arista's confidential customer information. Lines 9-25 on page 101 of Exhibit 68 contain Arista's confidential business information. Lines 2-1 on page 39 of Exhibit 72 contain Arista's confidential product information. The remaining exhibits in their entirety contain confidential information related to Arista's product development, sales strategies, or business information.	68, and 72; and Exhibits 1-26, 40-41, 44-46, 48, 51-53, 66, 69, 73-75, 77-82, in their entirety; and DENIED as to remainder.
25 26 27 28	Exhibits 55, 58 to Declaration of Amy H. Candido in Support of Cisco's Motion for Partial Summary Judgment	Highlighted portion at lines 4 to 24 on page 16 of Exhibit 55 contains confidential information related to Arista's source code. Arista does not seek to seal	GRANTED as to highlighted portions of Exhibit 55; and DENIED as to remainder.

	Exhibit 58.	
Exhibit 54 to Declaration of Amy H. Candido in Support of Cisco's Motion for Partial Summary Judgment	Highlighted portions contain Cisco's confidential source code information.	GRANTED.
Exhibit 50 to Declaration of Amy H. Candido in Support of Cisco's Motion for Partial Summary Judgment	Hewlett Packard did not file a declaration in support of sealing this exhibit.	DENIED.
Exhibit 76 to Declaration of Amy H. Candido in Support of Cisco's Motion for Partial Summary Judgment	Arista does not seek to seal this exhibit.	DENIED.
Exhibit 1 to Declaration of Judith A. Chevalier in Support of Cisco's Motion for Partial Summary Judgment	Highlighted portions contain Arista's confidential business information.	GRANTED.
Exhibit 1 to Declaration of Kevin Almeroth in Support of Cisco's Motion for Partial Summary Judgment	Highlighted portions contain Arista's confidential business and marketing information.	GRANTED.
Exhibit 2 to Declaration of Kevin Almeroth in Support of Cisco's Motion for Partial Summary Judgment	Highlighted portions contain Arista's confidential product and marketing information.	GRANTED.

B. ECF 328


Identification of Documents to be Sealed	Description of Documents	Court's Order
Exhibit 10 to the Declaration of Eduardo E. Santacana In Support of Defendant Arista Networks, Inc.'s Motion For Partial Summary Judgment	A portion of the deposition transcript of Kirk Loughheed at 362:16-371:16 contains information of third party source code and Cisco products.	GRANTS as 362:16-371:16; and DENIED as to remainder.
Exhibit 11 to the Declaration of Eduardo E. Santacana In Support of Defendant Arista Networks, Inc.'s Motion For Partial Summary Judgment	Portions of the deposition transcript of Kirk Loughheed at 55:2-56:18 and 157:8-159:17 contain information of third party source code and Cisco products.	GRANTS as 55:2-56:18 and 157:8-159:17; and DENIED as to remainder.
Exhibit 17 to the Declaration of Eduardo E. Santacana In Support of Defendant Arista Networks, Inc.'s Motion For Partial Summary Judgment	Contains confidential information on Cisco's products.	GRANTED.
Exhibits 1-3, 7-9, 16, 18, 19,	Cisco does not seek to seal	DENIED.

and 22-24 to the Declaration of
Eduardo E. Santacana In
Support of Defendant Arista
Networks, Inc.'s Motion For
Partial Summary Judgment

these exhibits.

IT IS SO ORDERED.

Dated: September 16, 2016


BETH LABSON FREEMAN
United States District Judge

United States District Court
Northern District of California